



September 6, 2005

TO: Thomas E. Perez, President, Montgomery County Council

FROM: Douglas M. Duncan, County Executive *Douglas M. Duncan*

SUBJECT: Proposal to Assume Site Plan Enforcement

Like you, I was disappointed and outraged to learn of the series of failures in the County's site plan development enforcement process. My review of our current two-pronged enforcement process leads me to conclude that responsibility for this important function should reside in a single enforcement agency.

The following is my proposal to transfer the building permit review and on-site inspection of all features of a site plan to the County's Department of Permitting Services.

The effectiveness of a code enforcement program is determined by how well it reviews permit applications for compliance to applicable laws, issues permits that will withstand legal challenge, inspects the permitted work for compliance with the permit and applicable standards, and issues the appropriate level of corrective or punitive action at the right time to ensure compliance.

This proposal models the current Special Exception approval/enforcement program which separates the planning authority of the District Council from the enforcement authority of the Executive Branch. It offers a system of checks and balances and centralizes zoning enforcement under a single zoning administrator providing clarity to applicants and residents seeking consultation on zoning matters. And, it establishes more inspections at critical times to ensure that a developer is complying with agreed upon standards.

The Montgomery County Zoning Ordinance Section 59-3.0 states, in part, that; "...no sediment control permit and no building or use and occupancy permit for the construction or use of any building or structure may be issued until a site plan is approved and unless it is in accordance with an approved plan."

In order to ensure that site plans are approved and development is proceeding in accordance with the approved site plan, I am proposing the following legislative, procedural and organizational changes to the development approval process.

- Transfer all plan review and inspection functions for site plan enforcement to the Department of Permitting Services.
- Create a Zoning Administrator position in the Department of Permitting Services. This position will be responsible for both standard and site plan zoning enforcement, including reviewing plans prior to permit issuance, conducting field inspections during construction and responding to citizen complaints.
- Create a Division of Zoning Code Compliance within the Department of Permitting Services.
- Hire 19 new employees in the Department of Permitting Services, and transfer an additional four employees from the Maryland-National Capital Park and Planning Commission (M-NCPPC), to enforce site plan conditions at the time of sediment control and building permit application review and during site plan implementation, and to respond to complaints after a development is complete.
- Require the Montgomery County Planning Board to forward all Planning Board opinions pertaining to proposed site plans, approved site plans, and amendments thereto to DPS.
- Require a use and occupancy permit for all new single family buildings and additions.
- Require a pre-construction inspection of all projects subject to site plans in order to communicate the plan's intent and requirement to the developer and the developer's contractor(s).
- Require regular inspections, at least monthly, on all projects subject to site plan approval and actively under construction.
- Require a site plan inspection prior to the issuance of a building permit.
- Require a building height inspection at the time of building close-in.

- Require a final wall check with building height measurement from a Maryland licensed land planner or surveyor prior to the issuance of a buildings use and occupancy permit.
- Require a final inspection of the site plan prior to issuing the last use and occupancy permit in the development.
- Add an additional staff person in the Department of Housing and Community Affairs to coordinate MPDU requirements.

The following legislative amendments are proposed:

- Amend MCC Sec. 59-A-3.21.(a) to require use and occupancy permits for single family dwellings.
- Amend MCC Sec. 59-D-3.4.(c).(3) to require the Planning Board to forward the Board's opinion and all site plan amendments to DPS.
- Re-title MCC Sec. 59-D-3.5, "Enforcement" and clearly assign DPS responsibility for enforcing all features of the site plan. Add the ability of DPS to enact Executive Regulations to enforce site plan compliance.
- Amend the definition of Director in MCC Section 59-A-2.1, to include the Zoning Administrator.
- In MCC Sec. 59-A-2.1, add the definition of the Zoning Administrator.

The County Attorney's Office is currently reviewing State and County law prior to drafting language. I plan to forward the legislation to you for introduction shortly.

The following organizational changes are proposed:

- Transfer from MNCPPC one Building Permit Reviewer. Reclassify to a Permitting Services Specialist (grade 26).
- Transfer from MNCPPC three Site Plan Inspectors. Reclassify to a Permitting Services Inspector (grade 23).
- Add/create four new Permitting Services Specialists (grade 26).
- Add/create eight new Permitting Services Inspectors (grade 23).
- Add/create three new Permitting Services Technicians (grade 19).
- Add/create one Zoning Administrator (MLS2).
- Add/create one Permitting Services Manger (MLS3).
- Add/create one Office Services Coordinator (grade 17).
- Add/create one DHCA MPDU Technician (grade to be determined)

I look forward to working with you on this matter.

PROPOSED ORGANIZATIONAL STRUCTURE

